

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

3:21-CV-164-LRH-CLB

**Default Judgment of Forfeiture and Final
Judgment of Forfeiture**

Colt Government Pistol CAL:45
SN:SCGA5964;
Smith & Wesson 686 Revolver CAL:357
SN:DMV6333;
Smith & Wesson 327 Revolver CAL:357
SN:SWT1716;
Henry Repeating Rifle Company H006M
Big Boy Rifle CAL:357 SN:BB0028142M;
Glock Inc. Unknown Type Receiver/Frame
CAL:Unknown SN:GKX284;
Glock Inc. Unknown Type Receiver/Frame
CAL:Unknown SN:BGCZ005;
Glock Inc. Unknown Type Receiver/Frame
CAL:Unknown SN:BGCZ066;
Ruger 10/22 Rifle CAL:22 SN:0015-69115;
Ruger 10/22 Rifle CAL:22 SN:829-86210;
Arsenal Co. Bulgaria SLR-107R Rifle
CAL:762 SN:AE602439;
Arsenal Co. Bulgaria SAM7SF Rifle
CAL:762 SN:XM532032;
Benelli, S. PA M4 Shotgun CAL:12
SN:Y113310P19; and
Mossberg 590 Shotgun CAL:12
SN:V0599900,

Defendant.

I. FACTS

The Gun Control Act (GCA), 18 U.S.C. § 922(a)(6), makes it unlawful

for any person in connection with the acquisition or attempted acquisition of
any firearm or ammunition from a . . . licensed dealer . . . knowingly to make
any false or fictitious oral or written statement or to furnish or exhibit any false,

1 fictitious, or misrepresented identification, intended or likely to deceive such .
 2 . . . dealer . . . with respect to any fact material to the lawfulness of the sale . . .
 of such firearm under the provisions of this chapter.

3 The GCA, 18 U.S.C. § 922(b)(3), generally prohibits a Federal Firearms Licensee
 4 from selling a firearm to an individual who the Federal Firearms Licensee knows or has
 5 reasonable cause to know does not reside in the state where the Federal Firearms
 6 Licensee's place of business is located. *See also* 27 C.F.R. § 478.99(a) ("A . . . licensed
 7 dealer . . . shall not sell or deliver any firearm to any person . . . who the licensee knows or
 8 has reasonable cause to believe does not reside in . . . the State in which the licensee's place
 9 of business or activity is located.").

10 The GCA, 18 U.S.C. § 923(g)(1)(A), requires Federal Firearms Licensees to
 11 maintain records of sale for a period, and in such a form, as required by federal regulations.

12 The Code of Federal Regulations, 27 C.F.R. § 478.124(a), requires a Federal
 13 Firearms Licensee to record any firearm transfer to a non-licensee on a Bureau of Alcohol,
 14 Tobacco, Firearms, and Explosives (ATF) Form 4473. The regulation mandates that the
 15 Federal Firearms Licensee obtain a completed Form 4473 from the transferee that shows,
 16 among other requirements, the transferee's "residence address" and "State of residence."
 17 27 C.F.R. § 478.124(c)(1) and (d). A Federal Firearms Licensee also must verify the
 18 transferee's identity with an "identification document." 27 C.F.R. § 478.124(c)(3)(i). To
 19 qualify as an "identification document," the paperwork provided by the transferee must
 20 show, among other requirements, the transferee's "residence address." 27 C.F.R. § 478.11.

21 For purposes of submitting forms to be used by ATF, "[s]tate of residence," which is
 22 a term that appears on a Form 4473, is defined to mean, in relevant part: "The State in
 23 which an individual resides. An individual resides in a State if he is or she is present in the
 24 State with the intention of making a home in that state." 27 C.F.R. § 478.11. The
 25 regulation explains that an individual may be a resident of more than one state if he or she
 26 maintains a home in each state, but the individual is only deemed a resident of each state
 27 during the time that he or she actually resides there. *See id.*

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1 The GCA subjects to forfeiture any firearm involved in a knowing violation of the
2 GCA or the C.F.R. provisions promulgated under the GCA. 18 U.S.C. § 924(d)(1).

3 On July 30, 2020, Ares Papageorge (Papageorge) completed a Form 4473 at Guns
4 N Ammo, a Federal Firearms Licensee in Gardnerville, Nevada, for the purchase of four of
5 the subject firearms.

6 a. On the Form 4473, Papageorge listed as his current address and state of
7 residence the following: “9620 W Russell Rd, Las Vegas, Clark County, NV
8 89148” (the Las Vegas address).

9 b. Papageorge did not take any of the firearms into physical custody in July
10 2020 during his visit to Guns N Ammo.

11 The Form 4473 was only valid for thirty days, and Papageorge returned to Guns N
12 Ammo on September 23, 2020, to fill out renewed and additional Form 4473s.

13 a. These Form 4473s listed all of the subject firearms.

14 b. On these Form 4473s, Papageorge again listed the Las Vegas address as his
15 current residence address.

16 The firearms were primarily purchased from out-of-state vendors and sent to Guns N
17 Ammo for Papageorge to take into physical custody after completing the transactions via the
18 Form 4473s.

19 a. Gardnerville is located in northern Nevada, just south of Carson City and on
20 the border with northern California.

21 b. In total, the firearms came from vendors in ten states.

22 c. One firearm was purchased from Spartan Arms—a Federal Firearms
23 Licensee in Las Vegas, Nevada—and sent to Guns N Ammo for Papageorge
24 to take into physical custody.

25 On September 1, 2020, Guns N Ammo contacted ATF about Papageorge’s
26 transactions. Guns N Ammo advised ATF that the transactions were suspicious, because,
27 among other reasons, the subject firearms had started to arrive in early 2020 and
28 Papageorge had still not taken physical custody of them.

1 An ATF Task Force Officer (TFO) was assigned to the case.

2 During the investigation, the ATF TFO discovered numerous pieces of evidence
3 that Papageorge had falsified his address on the Form 4473s and was, therefore, illegally
4 purchasing the firearms.

5 a. This evidence entailed records from state departments of motor vehicles.

6 i. Nevada Department of Motor Vehicles records revealed that Papageorge
7 had obtained a Nevada driver's license in October 2019. The license,
8 which was reissued in December 2020, listed apartment number 1108 at
9 the Las Vegas address.

10 ii. California Department of Motor Vehicles records revealed that
11 Papageorge had a California driver's license. Papageorge had most-
12 recently applied for the driver's license in August 2019. The driver's
13 license had expired in October 2020. The address that Papageorge listed
14 with the California Department of Motor Vehicles was "552 47th Ave,
15 San Francisco, CA 94121" (the San Francisco address).

16 iii. The active period for Papageorge's California driver's license overlapped
17 with that of Papageorge's Nevada driver's license. This period included
18 July 2020 and September 2020, when he had completed and signed the
19 Form 4473s.

20 b. This evidence entailed statements from people knowledgeable about the Las
21 Vegas address.

22 i. The ATF TFO reached out to the leasing company that owned and
23 managed the apartment at the Las Vegas address. A representative of the
24 leasing company advised that the company had no record of Papageorge
25 being a bona fide resident at the listed apartment or elsewhere on the
26 property.

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1 ii. The ATF TFO reached out to the resident of the apartment at the Las
2 Vegas address. The resident, D.A., provided the following information
3 about Papageorge's relationship to the Las Vegas address:

- 4 1. Papageorge had "asked to stay with [D.A.] for a few weeks to help
5 him out" around October 2019.
- 6 2. As far as D.A. knew, Papageorge had not been employed while
7 staying at the apartment at the Las Vegas address.
- 8 3. Papageorge did not make any financial contributions to D.A. for
9 rent during his stay at the apartment at the Las Vegas address.
- 10 4. D.A. had not given Papageorge permission to use the apartment at
11 the Las Vegas address as a place of residence for the purchase of
12 firearms.
- 13 5. As of February 2021, D.A. was aware that Papageorge lived in San
14 Francisco.

15 c. This evidence entailed other government records from California.

16 i. Records from the California Employment Development Department
17 revealed that Papageorge had submitted an application to California for
18 employment assistance. The records listed the San Francisco address for
19 Papageorge as of July 1, 2020.

20 ii. When Papageorge completed and signed the Form 4473 in July 2020, he
21 listed the Las Vegas address, not the San Francisco address.

22 ATF seized the following firearms based on Papageorge's knowing falsifications of
23 his residence address on the Form 4473s used to obtain the firearms:

- 24 a. Colt Government Pistol CAL:45 SN:SCGA5964;
- 25 b. Smith & Wesson 686 Revolver CAL:357 SN:DMV6333;
- 26 c. Smith & Wesson 327 Revolver CAL:357 SN:SWT1716;
- 27 d. Henry Repeating Rifle Company H006M Big Boy Rifle CAL:357
28 SN:BB0028142M;

- e. Glock Inc. Unknown Type Receiver/Frame CAL:Unknown SN:GKX284;
- f. Glock Inc. Unknown Type Receiver/Frame CAL:Unknown SN:BGCZ005;
- g. Glock Inc. Unknown Type Receiver/Frame CAL:Unknown SN:BGCZ066;
- h. Ruger 10/22 Rifle CAL:22 SN:0015-69115;
- i. Ruger 10/22 Rifle CAL:22 SN:829-86210;
- j. Arsenal Co. Bulgaria SLR-107R Rifle CAL:762 SN:AE602439;
- k. Arsenal Co. Bulgaria SAM7SF Rifle CAL:762 SN:XM532032;
- l. Benelli, S. PA M4 Shotgun CAL:12 SN:Y113310P19; and
- m. Mossberg 590 Shotgun CAL:12 SN:V0599900.

In Papageorge's administrative claim, signed under penalty of perjury, he stated that he had "resided in Nevada since November 2019." For support, Papageorge listed his Nevada driver's license number and stated that it had been issued in October 2019. In Papageorge's administrative claim, he continued to list the apartment at the Las Vegas address as his current residence address.

- a. However, as outlined above, ATF's investigation revealed that Papageorge never resided (for purposes of federal law) at the Las Vegas address listed on his Nevada driver's license and the Form 4473s, including at the time when he obtained his Nevada driver's license and at the time when he completed and signed the Form 4473s.
- b. Further, ATF's investigation revealed that Papageorge was using the San Francisco address, for purposes of his California driver's license and employment-benefits application, at the time when he completed and signed the Form 4473 in July 2020.

The thirteen firearms are the entirety of defendant property.

II. PROCEDURE

On April 8, 2021, the United States filed a verified Complaint for Forfeiture in Rem, ECF No. 1, alleging the Colt Government Pistol CAL:45 SN:SCGA5964; Smith & Wesson 686 Revolver CAL:357 SN:DMV6333; Smith & Wesson 327 Revolver CAL:357

1 SN:SWT1716; Henry Repeating Rifle Company H006M Big Boy Rifle CAL:357
 2 SN:BB0028142M; Glock Inc. Unknown Type Receiver/Frame CAL:Unknown
 3 SN:GKX284; Glock Inc. Unknown Type Receiver/Frame CAL:Unknown SN:BGCZ005;
 4 Glock Inc. Unknown Type Receiver/Frame CAL:Unknown SN:BGCZ066; Ruger 10/22
 5 Rifle CAL:22 SN:0015-69115; Ruger 10/22 Rifle CAL:22 SN:829-86210; Arsenal Co.
 6 Bulgaria SLR-107R Rifle CAL:762 SN:AE602439; Arsenal Co. Bulgaria SAM7SF Rifle
 7 CAL:762 SN:XM532032; Benelli, S. PA M4 Shotgun CAL:12 SN:Y113310P19; and
 8 Mossberg 590 Shotgun CAL:12 SN:V0599900 (defendant property) are:

- 9 a. any firearm or ammunition involved in or used in any knowing violation of
 10 18 U.S.C. § 922(a)(6) and is subject to forfeiture to the United States
 11 pursuant to 18 U.S.C. § 924(d)(1);
- 12 b. any firearm or ammunition involved in or used in any knowing violation of
 13 18 U.S.C. § 924(a)(1)(A) and is subject to forfeiture to the United States
 14 pursuant to 18 U.S.C. § 924(d)(1); and
- 15 c. any firearm or ammunition involved in or used in any knowing violation of
 16 18 U.S.C. § 924(a)(2) and is subject to forfeiture to the United States
 17 pursuant to 18 U.S.C. § 924(d)(1).

18 On May 7, 2021, the Court entered an Order for Summonses and Warrants of
 19 Arrest in Rem for the Property and Notice, ECF No. 4, and the Clerk issued the
 20 Summonses and Warrants of Arrest in Rem, ECF No. 5.

21 Pursuant to the Order, ECF No. 4, the following documents were served on the
 22 defendant property and all persons or entities who may claim an interest in the defendant
 23 property: the Complaint, ECF No. 1, the Order, ECF No. 4, the Summonses and
 24 Warrants, ECF No. 5, and the Notice of Complaint for Forfeiture. Notice was published
 25 according to law.

26 Pursuant to Supplemental Rule for Admiralty or Maritime Claims and Asset
 27 Forfeiture Actions (Fed. R. Civ. P. Supp. Rule) G(5), all persons interested in the
 28 defendant property were required to: (1) file a verified claim, setting forth the person's or its

1 interest in the property, that (a) identified the specific property claimed, (b) identified the
2 claimant and stated the claimant's interest in the property, and (c) was signed by the
3 claimant under penalty of perjury pursuant to 28 U.S.C. § 1746; (2) file the verified claim
4 with the Clerk of the above-entitled Court no later than 35 days after the notice is sent or, if
5 direct notice was not sent, no later than 60 days after the first day of publication on the
6 official internet government forfeiture site, www.forfeiture.gov; (3) file an answer to the
7 Complaint for Forfeiture in Rem or a motion under Rule 12 with the Clerk of the Court,
8 Bruce R. Thompson U.S. Courthouse and Federal Building, 400 South Virginia Street, 3rd
9 Floor, Reno, Nevada 89501, no later than 21 days after filing the verified claim; and (4)
10 serve a copy of the verified claim and the answer at the time of each filing on James A.
11 Blum, Assistant United States Attorney, 501 Las Vegas Boulevard South, Suite 1100, Las
12 Vegas, Nevada 89101. Complaint, ECF No. 1; Order for Summonses and Warrants, ECF
13 No. 4; Summonses and Warrants, ECF No. 5.

14 On June 14, 2021, the Bureau of Alcohol, Tobacco, Firearms, and Explosives
15 served the Complaint, the Order for Summonses and Warrants of Arrest in Rem for the
16 Property and Notice, the Summonses and Warrants of Arrest in Rem for the Property, and
17 the Notice of Complaint for Forfeiture and Arrest by executing them on the defendant
18 property. Notice of Filing Take into Custody, ECF No. 6.

19 Public notice of the forfeiture action and arrest was given to all persons and entities
20 by publication via the official internet government forfeiture site, www.forfeiture.gov, from
21 May 14, 2021, through June 12, 2021, and from August 7, 2021, through September 5,
22 2021. Notice of Filing Proof of Publication, ECF Nos. 7-1, p. 5; 9-1, p. 5.

23 On June 10, 2021, the United States Attorney's Office served and attempted to serve
24 Ares Papageorge by regular and certified return receipt mail with the Complaint for
25 Forfeiture, the Order for Summonses and Warrants of Arrest, the Summonses and
26 Warrants of Arrest, and the Notice. The regular mail was not returned. The certified mail
27 was returned as unclaimed. Amended Notice of Filing Service of Process – Mailing, ECF
28 No. 12-1, p. 3, 6-8, 10-50, 52-55.

1 On June 10, 2021, the United States Attorney's Office served and attempted to serve
2 Isaac Safier, Counsel for Ares Papageorge, by regular and certified return receipt mail with
3 the Complaint for Forfeiture, the Order for Summonses and Warrants of Arrest, the
4 Summonses and Warrants of Arrest, and the Notice. The status of the certified mail is
5 unknown as the post office has the document listed as in transit. Neither mailing was
6 returned. Amended Notice of Filing Service of Process – Mailing, ECF No. 12-1, p. 3, 6-8,
7 10-50, 56-60.

8 On June 10, 2021, the United States Attorney's Office attempted to serve Guns N
9 Stuff by regular and certified return receipt mail with the Complaint for Forfeiture, the
10 Order for Summonses and Warrants of Arrest, the Summonses and Warrants of Arrest,
11 and the Notice. The regular and certified mail were both returned as unable to forward.
12 Amended Notice of Filing Service of Process – Mailing, ECF No. 12-1, p. 3, 6-8, 10-50, 61-
13 65.

14 On August 5, 2021, the United States Attorney's Office served Guns N Ammo or
15 Guns & Arrow by regular and certified return receipt mail with the Complaint for
16 Forfeiture, the Order for Summonses and Warrants of Arrest, the Summonses and
17 Warrants of Arrest, and the Notice. Amended Notice of Filing Service of Process –
18 Mailing, ECF No. 12-1, p. 4, 6-8, 10-50, 66-69.

19 No person or entity has filed a claim, answer, or responsive pleading within the time
20 permitted by 18 U.S.C. § 983(a)(4) and Fed. R. Civ. P. Supp. Rule G(4) and (5).

21 On October 25, 2021, the United States filed a Motion for Entry of Clerk's Default
22 against the defendant property; Ares Papageorge; Guns N Stuff; Guns N Ammo or Guns &
23 Arrow; and all persons or entities who may claim an interest in the property in the above-
24 entitled action. Motion for Entry of Clerk's Default, ECF No. 10.

25 On November 15, 2021, the Clerk of the Court entered a Default against the
26 defendant property; Ares Papageorge; Guns N Stuff; Guns N Ammo or Guns & Arrow;
27 and all persons or entities who may claim an interest in the property in the above-entitled
28 action. Entry of Clerk's Default, ECF No. 11.

1 Ares Papageorge is not in the military service within the purview of the
2 Servicemembers Civil Relief Act of 2003. Exhibit 1.

3 Ares Papageorge is neither a minor nor an incompetent person.

4 **III. The Requirements for Default were met.**

5 **A. Legal Standard**

6 Civil forfeiture cases have five requirements that must be fulfilled to complete a
7 default: (1) the judgment sought does not differ in kind from, or exceed in amount, what is
8 demanded in the pleadings pursuant to Fed. R. Civ. P. 54(c); (2) the Clerk of the Court has
9 entered default for a sum certain pursuant to Fed. R. Civ. P. 55(b)(1); (3) publication and
10 personal service were completed pursuant to Fed. R. Civ. P. Supp. Rule G(4); (4) the
11 Complaint is legally sufficient to support a reasonable belief that the government will be
12 able to meet its burden of proof pursuant to Fed. R. Civ. P. Supp. Rule G(2), *Alan Neuman*
13 *Prods., Inc. v. Albright*, 862 F.2d 1388, 1392 (9th Cir. 1988); and (5) no person has filed a
14 claim, or the claim(s) have been resolved under 18 U.S.C. § 983(a)(4)(A) or Supp. R. G(5).

15 Civil cases that do not directly address forfeiture have seven factors that the Court
16 must consider before entry of default: (1) the substantive merit of the plaintiff's claims; (2)
17 the sufficiency of the complaint; (3) the amount of money at stake; (4) the possibility of
18 prejudice to the plaintiff if relief is denied; (5) the possibility of disputes to any material
19 facts in the case; (6) whether default resulted from excusable neglect; and (7) the public
20 policy favoring resolution of cases on the merits. *Eitel v. McCool*, 782 F.2d 1470, 1471-72
21 (9th Cir. 1986); *SATA GmbH & Co. KG v. USA Italco Int'l Ltd.*, No. 3:18-CV-00351-MMD-
22 WGC, 2019 WL 4601513, at *3 (D. Nev. Sept. 20, 2019); *Covenant Care California, LLC v.*
23 *Shirk*, No. 217CV00956JADVCF, 2018 WL 3429669, at *1 (D. Nev. July 16, 2018).

24 For purposes of a default judgment, the well-pled allegations of a complaint are
25 taken as true. *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 918 (9th Cir. 1987).
26 Furthermore, upon default, the defendant's liability is conclusively established and the
27 factual allegations in the complaint, except those relating to damages, are accepted as true.
28 *Geddes v. United Fin. Grp.*, 559 F.2d 557, 560 (9th Cir. 1977). The power to grant or deny

1 relief upon an application for default judgment is within the discretion of the Court. *Aldabe*
2 *v. Aldabe*, 616 F.2d 1089, 1092 (9th Cir. 1980).

3 **B. The Forfeiture Requirements for Default Were Met.**

4 a. Judgment Sought

5 Pursuant to Fed. R. Civ. P. 54(c) and 55(b), the judgment by default does not “differ
6 in kind from, or exceed [the] amount” of relief listed in the Complaint for forfeiture.

7 b. Default and Entry of Default

8 As shown above, the United States requested entry of Clerk’s Default against the
9 defendant property, Ares Papageorge, Guns N Stuff, Guns N Ammo or Guns & Arrow,
10 and all persons or entities who may claim an interest in the defendant property in the
11 above-entitled action. ECF No. 10. The Clerk entered the Default as requested. ECF No.
12 11.

13 c. Notice

14 Pursuant to Fed. R. Civ. P. Supp. Rule G(4)(a)(iv)(C), the United States published
15 notice via the official internet government forfeiture site, www.forfeiture.gov, for thirty
16 consecutive days. ECF Nos. 7, 9. Pursuant to Fed. R. Civ. P. Supp. Rule G(4)(b), the
17 United States served the Complaint, the Order for Summonses and Warrants of Arrest in
18 Rem for the Property and Notice, the Summonses and Warrants of Arrest in Rem for the
19 Property, and the Notice of Complaint for Forfeiture and Arrest on all known potential
20 claimants. ECF No. 8.

21 d. Legal Sufficiency of the Complaint

22 The Complaint filed in this action was verified. The Court has subject matter
23 jurisdiction, in rem jurisdiction over the defendant property, and venue. The Complaint
24 described the property with reasonable particularity. The Complaint stated where the
25 seizure of the defendant property occurred and its current location. The Complaint
26 identified the statute under which the forfeiture action has been brought. The Complaint
27 alleged sufficiently detailed facts to support a reasonable belief that the United States would
28 be able to meet its burden of proof at trial. Supp. R. G(2); ECF No. 1.

1 e. Status of Potential Claimants

2 No person or entity has filed a claim, and the time to file a claim has passed.

3 **C. The Civil Requirements for Default Were Met.**

4 a. The Plaintiff Would be Prejudiced Without a Judgment

5 The government would be prejudiced if it were to try this case rather than obtain a
6 default judgment, since a trial would require the additional expenditure of human and
7 financial resources. These expenses and efforts are unnecessary because the Complaint
8 established sufficient evidence of the status and forfeitability of the defendant property, and
9 that evidence is uncontested by Ares Papageorge, Guns N Stuff, and Guns N Ammo or
10 Guns & Arrow. *See United States v. \$150,990.00 in U.S. Currency*, No. 2-12-CV-01014-JAD,
11 2014 WL 6065815, at *2 (D. Nev. Nov. 10, 2014) (brackets added), (“[T]he government
12 would be prejudiced by having to expend additional resources litigating an action that
13 appears to be uncontested. This factor favors default judgment.”).

14 b. & c. The Plaintiff's Claims are Meritorious and the Complaint is
15 Sufficient.

16 As shown in the statement of the case above, the government has a bona fide case
17 against the defendant property and the Complaint sufficiently alleges the facts of the case.

18 d. The Amount of Money at Stake

19 The value of the defendant property was clearly established in the Complaint, ECF
20 No. 1, and the defendant property is forfeitable pursuant to 21 U.S.C. § 881(a)(6).

21 Under the fourth *Eitel* factor, the court considers the amount of money at stake
22 in relation to the seriousness of Defendants' conduct. Plaintiff has provided
23 evidence that the currency, a sum of \$24,000, was furnished or intended to be
furnished in exchange for marijuana, a serious violation of federal law.

24 *United States v. Twenty-Four Thousand Dollars (\$24,000) in U.S. Currency*, No.
25 02:09-CV-2319-LRH, 2010 WL 2695637, at *3 (D. Nev. July 2, 2010)
(quotation marks and citation omitted).

26 The Complaint alleges the serious crime of making false statements in procuring a
27 firearm.

28 / / /

e. There Are No Possible Disputes of Material Fact

No issues of material fact exist, and the allegations of the Complaint are established as a matter of law. The property is subject to forfeiture because law enforcement can demonstrate that the defendant property is:

- i. any firearm or ammunition involved in or used in any knowing violation of 18 U.S.C. § 922(a)(6) and is subject to forfeiture to the United States pursuant to 18 U.S.C. § 924(d)(1);
- ii. any firearm or ammunition involved in or used in any knowing violation of 18 U.S.C. § 924(a)(1)(A) and is subject to forfeiture to the United States pursuant to 18 U.S.C. § 924(d)(1); and
- iii. any firearm or ammunition involved in or used in any knowing violation of 18 U.S.C. § 924(a)(2) and is subject to forfeiture to the United States pursuant to 18 U.S.C. § 924(d)(1).

f. Default Was Not the Result of Excusable Neglect

The record shows that the potential claimants were properly served with the Complaint, Order, Summonses and Warrants, and the Notice and failed to file a claim and answer to the Complaint. There is no evidence of excusable neglect.

g. Public Policy Does not Prevent Default Judgment

Under Fed. R. Civ. P. 55(b), default judgments are allowed. Here, the potential claimants did not file a claim and an answer to the government's Complaint.

While the Federal Rules do favor decisions on the merits, they also frequently permit termination of cases before the court reaches the merits. As F.R.C.P. 55 indicates, one such instance is when a party fails to defend against an action, which is exactly what [claimant(s)] failed to do in this case. Thus, the preference to decide cases on the merits does not preclude a court from granting default judgment.

Kloepping v. Fireman's Fund, No. C 94-2684 TEH, 1996 WL 75314, at *3 (N.D. Cal. Feb. 13, 1996).

Denying the government's Motion would not further public policy. While cases should be decided on the merits when possible, the potential claimants have not contested the facts of the Complaint or the forfeiture of the defendant property, which makes a decision on the

merits impractical. Therefore, a final default judgment of forfeiture is appropriate. *See Covenant Care California*, 2018 WL 3429669, at *2.

IV. Judgment

Based on the foregoing this Court finds that the United States has shown its entitlement to a Default Judgment of Forfeiture as to Ares Papageorge, Guns N Stuff, Guns N Ammo or Guns & Arrow, and all persons or entities who may claim an interest in the defendant property and Final Judgment of Forfeiture as to the Colt Government Pistol CAL:45 SN:SCGA5964; Smith & Wesson 686 Revolver CAL:357 SN:DMV6333; Smith & Wesson 327 Revolver CAL:357 SN:SWT1716; Henry Repeating Rifle Company H006M Big Boy Rifle CAL:357 SN:BB0028142M; Glock Inc. Unknown Type Receiver/Frame CAL:Unknown SN:GKX284; Glock Inc. Unknown Type Receiver/Frame CAL:Unknown SN:BGCZ005; Glock Inc. Unknown Type Receiver/Frame CAL:Unknown SN:BGCZ066; Ruger 10/22 Rifle CAL:22 SN:0015-69115; Ruger 10/22 Rifle CAL:22 SN:829-86210; Arsenal Co. Bulgaria SLR-107R Rifle CAL:762 SN:AE602439; Arsenal Co. Bulgaria SAM7SF Rifle CAL:762 SN:XM532032; Benelli, S. PA M4 Shotgun CAL:12 SN:Y113310P19; and Mossberg 590 Shotgun CAL:12 SN:V0599900.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Default Judgment of Forfeiture is entered against Ares Papageorge, Guns N Stuff, Guns N Ammo or Guns & Arrow, and all persons or entities who may claim an interest in the defendant property in the above-entitled action.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Final Judgment of Forfeiture is entered against the Colt Government Pistol CAL:45 SN:SCGA5964; Smith & Wesson 686 Revolver CAL:357 SN:DMV6333; Smith & Wesson 327 Revolver CAL:357 SN:SWT1716; Henry Repeating Rifle Company H006M Big Boy Rifle CAL:357 SN:BB0028142M; Glock Inc. Unknown Type Receiver/Frame CAL:Unknown SN:GKX284; Glock Inc. Unknown Type Receiver/Frame CAL:Unknown SN:BGCZ005; Glock Inc. Unknown Type Receiver/Frame CAL:Unknown SN:BGCZ066; Ruger 10/22 Rifle CAL:22 SN:0015-69115; Ruger 10/22 Rifle CAL:22

1 SN:829-86210; Arsenal Co. Bulgaria SLR-107R Rifle CAL:762 SN:AE602439; Arsenal
2 Co. Bulgaria SAM7SF Rifle CAL:762 SN:XM532032; Benelli, S. PA M4 Shotgun CAL:12
3 SN:Y113310P19; and Mossberg 590 Shotgun CAL:12 SN:V0599900.

4 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the defendant
5 property be, and the same is hereby forfeited to the United States of America, and no
6 possessory rights, ownership rights, and no rights, titles, or interests in the property shall
7 exist in any other party.

8 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, that Ares
9 Papageorge, Guns N Stuff, and Guns N Ammo or Guns & Arrow forfeited all possessory
10 rights, ownership rights, and all rights, titles, or interests in the property to the United
11 States.

12 IT IS HEREBY CERTIFIED, pursuant to 28 U.S.C. § 2465(a)(2), that there was
13 reasonable cause for the seizure or arrest of the defendant property.

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17 LARRY R. HICKS
18 UNITED STATES DISTRICT JUDGE

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DATED: January 19, 2022